

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

MAURICE R. GOINS,)	
)	
Petitioner)	
)	
vs.)	Civil Action No. 10-652
)	Judge Arthur J. Schwab/
)	Chief Magistrate Judge Amy Reynolds Hay
BRIAN V. COLEMAN, Superintendent,)	
State Correctional Institution, Fayette,)	
Pennsylvania, et al.,)	
)	
Respondent)	

MEMORANDUM ORDER

The above-captioned pro se habeas corpus petition, ostensibly filed pursuant to 28 U.S.C. § 2243, was received by the Clerk of Court on May 13, 2010, and was referred to Chief United States Magistrate Judge Amy Reynolds Hay for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and the Local Civil Rule 72.

The Chief Magistrate Judge's Report and Recommendation, Dkt. [4], filed on June 30, 2010, recommended that the petition be denied prior to service as being a second or successive Section 2254 habeas petition and that a certificate of appealability also be denied. A copy of the Report was served on the Petitioner at his place of confinement. The Petitioner was informed that in accordance with both the Magistrate Judges Act, 28 U.S.C. § 636(b)(1)(B) and (C), and with the Local Civil Rule 72, he had a specific period of time in which to file his objections.

Petitioner filed his objections, Dkt. [7], and a brief in support. Dkt. [8]. Additionally, in the interim, two days after the filing of the Report, Petitioner filed a supplement to his petition. Dkt. [6].

None of the objections merits rejection of the Report nor extended comment. It is clear that the current habeas petition is nothing other than a second or successive Section 2254 habeas petition, over which this Court lacks subject matter jurisdiction. As for Petitioner's supplement, it does not change the fact that the present petition is second or successive.

After *de novo* review of the pleadings and the documents in the case, together with the Report and Recommendation and objections, the following order is entered:

AND NOW, this 20th day of July, 2010;

IT IS HEREBY ORDERED that the Petitioner's habeas petition is **DISMISSED** for lack of subject matter jurisdiction being that it is a second or successive Section 2254 habeas petition for which Petitioner has not obtained leave of the Court of Appeals to file. A certificate of appealability is **DENIED**.

IT IS FURTHER ORDERED that the Report and Recommendation, Dkt. [4], filed on June 30, 2010, by Chief Magistrate Judge Hay, is adopted as the opinion of the Court. Any other pending motions are **DENIED** as moot. The Clerk is to mark the case closed.

Petitioner is advised that he has the right for thirty (30) days to file a notice of appeal from our order dismissing his petition, see 28 U.S.C. § 2253(a); Fed. R.App. P. 4(a)(1)(A), and that our denial of a certificate of appealability does not prevent him from doing

so, as long as he also seeks a certificate of appealability from the Court of Appeals. See Federal Rule of Appellate Procedure 22(b)(1).



Arthur J. Schwab
United States District Judge

cc: The Honorable Amy Reynolds Hay
Chief United States Magistrate Judge

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